

The Gazette of India



EXTRAORDINARY PART II—Section 2

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No. 50] NEW DELHI, THURSDAY, DECEMBER 10, 1953

COUNCIL OF STATES

The following Bills were introduced in the Council of States on the 10th December, 1953:—

Bill No. XXIX of 1953

A Bill further to amend the Indian Railways Act, 1890.

Be it enacted by Parliament as follows:—

1. Short title.—This Act may be called the Indian Railways (Second Amendment) Act, 1953.

2. Substitution of new section for section 53 in Act IX of 1890.—For section 53 of the Indian Railways Act, 1890, the following section shall be substituted, namely:—

“53. *Maximum carrying capacity for wagons.*—(1) The gross weight of every wagon or truck bearing on the axles when the wagon or truck is loaded to its maximum carrying capacity shall not exceed such limit as may be fixed by the Central Government for the class of axle under the wagon or truck.

(2) Subject to the limit fixed under sub-section (1), every railway administration shall determine the normal carrying capacity for every wagon or truck in its possession and shall exhibit the words and figures representing the normal carrying capacity so determined in a conspicuous manner on the outside of every such wagon or truck.

(3) Every person owning a wagon or truck which passes over a railway shall similarly determine and exhibit the normal carrying capacity for the wagon or truck.

(4) Notwithstanding anything contained in sub-section (2) or sub-section (3), where a railway administration thinks it necessary or expedient so to do in respect of any wagon or truck

carrying any specified class of goods or any class of wagons or trucks of any specified type, it may, by notification, vary the normal carrying capacity for such wagon or truck or such class of wagons or trucks and, subject to such conditions as it may think fit to impose, determine for the same such carrying capacity as may be specified in the notification and it shall not be necessary to exhibit the words and figures representing the carrying capacity so determined on the outside of such wagon or truck or such class of wagons or trucks:

Provided that in no case the gross weight of such wagon or truck or such class of wagons or trucks shall exceed the limit fixed under sub-section (1) for the class of axle under the wagon or truck."

STATEMENT OF OBJECTS AND REASONS

With a view to securing better utilisation of the available wagon space, railways allow, within the limit of safety, loading of certain classes of goods somewhat in excess of the marked carrying capacity of the wagons. Although such enhanced carrying capacity is not exhibited on the outside of the wagons as required by sub-section (1) of section 53 of the Indian Railways Act 1890 (IX of 1890), railways notify it through their circulars for the guidance of the public. Freight charges are also collected in such cases on the increased carrying capacity so permitted. As, however, this practice is not strictly in conformity with the provisions of section 53 of the Indian Railways Act, 1890, the present Bill seeks to amend this section suitably to permit loading of wagons (when occasion so requires) beyond the marked carrying capacity without exhibiting the enhanced capacity on the outside of the wagons.

O. V. ALAGESAN.

NEW DELHI;

The 5th November, 1953.

Bill No. XXX of 1953.

A Bill to declare certain offices of profit not to disqualify their holders for being chosen as, or for being, members of Parliament or, as the case may be, the Legislative Assembly of any Part C State.

WHEREAS doubts have arisen as to whether certain offices are offices of profit under the Government;

AND WHEREAS it is expedient to declare that such offices should not, under certain conditions, disqualify, or be deemed to have disqualifed, the holders thereof for being chosen as, or for being, members of Parliament or, as the case may be, the Legislative Assembly of any Part C State;

Be it, therefore, enacted by Parliament as follows:—

1. Short title.—This Act may be called the Prevention of Disqualification (Parliament and Part C States Legislatures) Act, 1953.

2. Definitions.—In this Act, unless the context otherwise requires,—

(a) “Committee” means any committee, commission, council, board or any other body of persons, whether a statutory body or not, set up by the Government;

(b) “compensatory allowance” means such sum of money as the Government may determine as being payable to the Chairman or any other member of a Committee by way of travelling allowance, daily allowance, conveyance allowance or house rent allowance for the purpose of enabling the Chairman or other member to recoup any expenditure incurred by him in attending any meeting of a Committee or performing any other functions as a member of a Committee.

Explanation.—For the purposes of this clause, “daily allowance” means an allowance which shall not,—

(i) in the case of a member of either House of Parliament, when that House is sitting, exceed forty rupees per day; and

(ii) in any other case, exceed twenty rupees per day;

(c) “statutory body” means any corporation, board, company, society or any other body of persons, whether incorporated or not, established, registered or formed by or under any law for the time being in force or exercising powers and functions under any such law.

3. Removal and prevention of disqualification for membership of Parliament in certain cases.—It is hereby declared that the following offices shall not disqualify, and shall be deemed never to have disqualified, the holders thereof for being chosen as, or for being, members of Parliament,—

(a) the offices of Chairman and member of a Committee set up for the purpose of advising the Government or any other authority in respect of any matter of public importance or for the purpose of making an inquiry into, or collecting statistics in respect of, any such matter:

Provided that the holder of any such office is not in receipt of, or entitled to, any fee or remuneration other than compensatory allowance;

(b) the offices of the Vice-Chancellors of Universities;

(c) the offices of the Deputy Chief Whips in Parliament;

(d) the offices held by officers in the National Cadet Corps raised and maintained under the National Cadet Corps Act, 1948 (XXXI of 1948), and in the Territorial Army raised and maintained under the Territorial Army Act, 1948 (LVI of 1948).

4. Temporary removal of disqualification for membership of Parliament in certain other cases.—It is hereby further declared that the following offices shall be deemed never to have disqualified, and shall not, if held for any period not extending beyond the 31st day

of March, 1954, disqualify, the holders thereof for being chosen as, or for being, members of Parliament,—

(a) the offices of Chairman and member of a Committee other than any such Committee as is referred to in clause (a) of section 3;

(b) the offices of Chairman, director, member and officer of a statutory body, where the power to make any appointment to any such office or the power to remove any person therefrom is vested in the Government.

5. Application of Act to Part C States Legislatures.—For the removal of doubts, it is hereby declared that this Act shall apply to members of the Legislative Assemblies of Part C States as they apply to members of Parliament, subject, however, to the modification that in respect of a member of the Legislative Assembly of a Part C State, daily allowance shall in no case exceed twenty rupees per day.

STATEMENT OF OBJECTS AND REASONS

Article 102(1)(a) of the Constitution lays down that a person shall be disqualified for being chosen as, and for being, a member of Parliament if he holds any office of profit under the Government of India or the Government of any State, other than an office declared by Parliament by law not to disqualify its holder. Doubts have arisen as to whether certain offices to which members of Parliament have been or are being appointed are offices of profit under the Government, and the question as to disqualification for membership of Parliament is not free from doubt. It is felt that it is expedient in the larger interests of the country to continue to appoint members of Parliament to certain offices and it is necessary to remove the disqualification, if any, attaching to such offices. Clause 3 of the Bill makes provision to remove such disqualification. There are certain other offices, falling within the purview of clause 4 of the Bill, to which also members of Parliament were appointed under the *bona fide* belief that such appointments would not amount to a disqualification under article 102(1)(a) of the Constitution. It is necessary to remove the disqualification, if any, attaching to such offices also. Clause 4 of the Bill seeks to remove such disqualification not only retrospectively but also prospectively for a limited period. If it is found desirable to remove permanently the disqualification attaching to any statutory office, it would be possible to do so by a suitable amendment of the Act under which the office is held. The provisions of the Bill should also apply, with suitable modifications, to members of the Legislative Assemblies of Part C States.

This Bill seeks to achieve these objects.

C. C. BISWAS.

NEW DELHI;

The 7th December, 1953.

S. N. MUKERJEE,
Secretary.